

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 12, 2021

3:17 p.m.

DRAFT

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Ivy Spohnholz, Co-Chair
Representative Calvin Schrage
Representative Liz Snyder
Representative David Nelson
Representative James Kaufman
Representative Ken McCarty

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Board of Pharmacy

Jason Ruffridge - Soldotna

HEARD AND HELD

Board of Veterinary Examiners

Rachel Berngartt - Juneau

HEARD AND HELD

Board of Certified Real Estate Appraisers

Mae Sprague - Wasilla

HEARD AND HELD

SENATE BILL NO. 87

"An Act relating to credit for reinsurance; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 145

"An Act relating to the Board of Pharmacy; relating to health care services provided by pharmacists and pharmacy technicians; and relating to the practice of pharmacy."

- HEARD & HELD

HOUSE BILL NO. 90

"An Act relating to rental vehicles; relating to vehicle rental networks; relating to liability for vehicle rental taxes; and providing for an effective date."

- MOVED HB 90 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 87

SHORT TITLE: REINSURANCE; CREDITS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/22/21	(S)	READ THE FIRST TIME - REFERRALS
02/22/21	(S)	L&C
03/08/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/08/21	(S)	Heard & Held
03/08/21	(S)	MINUTE(L&C)
03/19/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/19/21	(S)	Moved SB 87 Out of Committee
03/19/21	(S)	MINUTE(L&C)
03/22/21	(S)	L&C RPT 5DP
03/22/21	(S)	DP: COSTELLO, GRAY-JACKSON, STEVENS, REVAK, HOLLAND
03/31/21	(S)	TRANSMITTED TO (H)
03/31/21	(S)	VERSION: SB 87
04/05/21	(H)	READ THE FIRST TIME - REFERRALS
04/05/21	(H)	L&C
04/12/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 145

SHORT TITLE: EXPAND PHARMACIST AUTHORITY

SPONSOR(s): SNYDER

03/24/21	(H)	READ THE FIRST TIME - REFERRALS
03/24/21	(H)	L&C, HSS
04/12/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 90

SHORT TITLE: VEHICLE RENTALS & VEHICLE RENTAL NETWORKS

SPONSOR(s): WOOL

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, FIN
04/09/21	(H)	L&C AT 8:00 AM GRUENBERG 120
04/09/21	(H)	Heard & Held
04/09/21	(H)	MINUTE (L&C)
04/12/21	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

JUSTIN RUFFRIDGE, PharmD, Appointee
Board of Pharmacy
Soldotna, Alaska

POSITION STATEMENT: Spoke as an appointee to the Board of Pharmacy.

RACHEL BERNGARTT, DVM, Appointee
Board of Veterinary Examiners
Juneau, Alaska

POSITION STATEMENT: Spoke as an appointee to the Board of Veterinary Examiners.

MAE SPRAGUE, Appointee
Board of Certified Real Estate Appraisers
Wasilla, Alaska

POSITION STATEMENT: Spoke as an appointee to the Board of Certified Real Estate Appraisers.

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Introduced SB 87 on behalf of the Senate Rules Standing Committee, sponsor, by request of the governor.

ALLIANA SANGUIT, Staff
Representative Liz Snyder
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis of HB 145 on behalf of Representative Snyder, prime sponsor.

TOM WADSWORTH, Chief Administrative Officer

University of Alaska Anchorage/Idaho State University Doctor of
Pharmacy Program
Anchorage, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB
145.

GRETCHEN GLASPY, President
Alaska Pharmacists Association
Juneau, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB
145.

JUSTIN RUFFRIDGE, PharmD
Board of Pharmacy
Soldotna, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB
145.

REPRESENTATIVE ADAM WOOL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, provided information and
answered questions during the hearing on HB 90.

MIKE BARNHILL, Deputy Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Provided information during the hearing on
HB 90.

SEAN VINCK, Senior Counsel
Turo
San Francisco, California

POSITION STATEMENT: Testified in opposition to HB 90.

CARL SZABO, Vice President and General Counsel
NetChoice
Washington, D.C.

POSITION STATEMENT: Testified in opposition to HB 90.

BENJAMIN PALMER, Director of Government and Public Affairs
Enterprise Holdings Inc.
California

POSITION STATEMENT: Testified in support of HB 90.

ACTION NARRATIVE

[3:17:39 PM](#)

CO-CHAIR IVY SPOHNHOLZ called the House Labor and Commerce Standing Committee meeting to order at 3:17 p.m. Representatives Schrage, McCarty, Fields, Snyder, and Spohnholz were present at the call to order. Representatives Kaufman and Nelson arrived as the meeting was in progress.

CONFIRMATION HEARING(S) :

Board of Pharmacy

Board of Veterinary Examiners

Board of Certified Real Estate Appraisers

[3:19:09 PM](#)

CO-CHAIR SPOHNHOLZ announced that the first order of business would be confirmation hearings for consideration of the governor's appointees to various boards.

[3:19:22 PM](#)

JUSTIN RUFFRIDGE, PharmD, Appointee, Board of Pharmacy, informed the committee that he has been practicing in Soldotna since 2008. He said he owns three pharmacies within Alaska and has been involved in several areas of the practice. He expressed the hope of continuing to serve his committee through his profession and public service.

[3:21:46 PM](#)

REPRESENTATIVE MCCARTY asked Dr. Ruffridge what concerns he has for pharmacies in Alaska.

DR. RUFFRIDGE responded that he believes pharmacists, as protectors of medicine, are the natural choice to help Alaskans to progress in their health. Pharmacists have sometimes been stuck between a rock and a hard place, he said, with a degree of uncertainty about what their abilities and duties are in cases where a patient needs a drug prescribed by a doctor. He expressed that the Board of Pharmacy has gone to great lengths to ensure pharmacists are aware of their duties and protections, particularly in cases of opiate medications. He said he's seen significant alterations of prescribing practices and durations of therapy, and that Alaska is moving in the right direction.

REPRESENTATIVE MCCARTY asked what can be done in collaboration with the Board of Medicine.

DR. RUFFRIDGE replied that the collaborative process is ongoing, with a recent joint meeting between the two boards to discuss prescription drug monitoring programs and ways for physicians to collaborate with pharmacists to produce high-quality health care. He noted that the current chair of the Board of Pharmacy has gone "above and beyond" in collaboration efforts.

[3:24:54 PM](#)

CO-CHAIR SPOHNHOLZ thanked Dr. Ruffridge and expressed that he has been a leader when it comes to "moving change" in Alaska.

[3:25:29 PM](#)

RACHEL BERNGARTT, DVM, Appointee, Board of Veterinary Examiners, informed the committee that she has lived and worked in Alaska since 2002 and is currently based in Juneau. She said she is also a licensed member of the Alaska Bar Association. She said she was initially confirmed to the Board of Veterinary Examiners in 2016, and this confirmation would be a reinstatement. She noted the need to recognize the role veterinarians play in zoonotic disease risk management and the increased need for veterinary services due to the surge in pet adoptions during quarantine. She said on her previous work on the board she has addressed the public's need for safe access to veterinary care during the COVID-19 pandemic, providing best practices for licensees for continued services, emergency regulation, and ongoing monitoring and effects of state mandates. Dr. Berngartt described her extensive participation in legislative testimony and outreach. She said she would like to keep her momentum on the board.

[3:31:50 PM](#)

REPRESENTATIVE NELSON asked Dr. Berngartt to talk about her history as a veterinarian.

DR. BERNGARTT responded that she has served for 10 years as the clinical director of the Juneau Humane Society and has been involved in marine mammal science efforts at the Alaska Sea Life Center. She said she has worked with seals in Antarctica, provided equine care in Southeast Alaska, and currently practices regular small-animal medicine in Juneau.

[3:34:01 PM](#)

MAE SPRAGUE, Appointee, Board of Certified Real Estate Appraisers, said she is a certified real estate appraiser with 20 years' experience in real estate in Alaska, as well as an operating principal in her husband's construction company. She said she would like to serve on the board to become more knowledgeable in issues within the field of real estate. She said that she would bring to the board a perspective from other fields.

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CO-CHAIR SPOHNHOLZ opened public testimony on the governor's appointees to the Board of Pharmacy, Board of Veterinary Examiners, and Board of Certified Real Estate Appraisers. After ascertaining that no one wished to testify, she closed public testimony.

SB 87-REINSURANCE; CREDITS

[3:36:07 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be SENATE BILL NO. 87, "An Act relating to credit for reinsurance; and providing for an effective date."

[3:36:22 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community, and Economic Development, introduced SB 87 on behalf of the Senate Rules Standing Committee, sponsor, by request of the governor. She explained that one of the most important duties carried out by the Division of Insurance is monitoring the solvency of insurance companies to ensure adequate funds to pay claims. She said that in practice, insurance companies only keep a portion of the risk; if a person has a house worth \$500,000, the insurance company may insure only half of the worth, purchasing reinsurance for the other half. Likewise, she said, the company may transfer only the earthquake portion of the policy because the company doesn't want to carry that risk. She recalled the 2008 financial crisis, noting that the Division of Insurance was diligent in monitoring insurance companies for solvency, but did not monitor for reinsurance. She stated that the United States, along with the United Kingdom and the European Union, developed what is

called the "covered agreement," a very detailed agreement providing that insurance regulators in each country will maintain the same financial standards for insurance companies. The covered agreement with the European Union was signed by President Barack Obama, and the covered agreement with the United Kingdom was signed by President Donald Trump. As new international insurers are launched, however, a need for modification arises, which is the reason for SB 87.

MS. WING-HEIER directed the committee's attention to Section 1, subsection (a), paragraph (6), of the proposed legislation, detailed on pages 10 through 13, which would amend the conditions for qualified reinsurers and the associated baseline for allowing reinsurers to assume the liabilities of a domestic insurer. Current domestic insurers, she said, are Alaska National Insurance Company and Umialik Insurance Company. She explained that "creditor reinsurance" is called as such because when an insurance company buys reinsurance from a qualified reinsurer, the company can get a credit for what was purchased in reinsurance. Ms. Wing-Heier then summarized the relevant sectional analysis, which read as follows [original punctuation provided]:

AS 21.12.020(a)(6) is amended by adding conditions that a qualified reinsurer must meet to assume liabilities of a domestic insurer. The assuming insurer shall:

- (A) Have its head office or be domiciled in a reciprocal jurisdiction;
- (B) Have and maintain minimum capital and surplus, or its equivalent, in an amount set out in regulation;
- (C) Have and maintain a minimum solvency or capital ratio in an amount set out in regulation;
- (D) Agree to and provide adequate assurances to the director (i) prompt written notice if the insurer falls below the minimum requirements or if any regulatory action is taken against it for serious non-compliance; (ii) consent in writing to the jurisdiction of the courts of this state and to the appointment of the director as the agent for service of process; (iii) consent in writing to pay all final judgments obtained by the ceding insurer; (iv) agree that each reinsurance agreement must provide security in an amount equal to 100 percent of the assuming insurer's liabilities; and (v) confirm that it is not participating in any solvent scheme of arrangement that involves this state's ceding insurers;

- (E) Provide certain documentation to the director as specified in regulation;
- (F) Maintain a practice of prompt payment of claims;
- (G) Confirm to the director on an annual basis that the assuming insurer complies with requirement (B) and (C);
- (H) Agree that nothing in this paragraph precludes an assuming insurer from providing the director with information on a voluntary basis.

MS. WING-HEIER stated that the proposed legislation would also provide a definition of a "reciprocal jurisdiction" and that the reciprocal jurisdiction would include the countries in the United Kingdom and the countries of the European Union.

[3:40:58 PM](#)

CO-CHAIR FIELDS commented that reinsurance seems to be more broadly available to, and disproportionately benefit, people in regions of low-frequency, high-consequence events like earthquakes.

MS. WING-HEIER replied that such events are exactly what reinsurance is for, noting that such events don't commonly occur but are "catastrophic" when they do.

[3:41:40 PM](#)

CO-CHAIR SPOHNHOLZ announced that SB 87 was held over.

HB 145-EXPAND PHARMACIST AUTHORITY

[3:41:55 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 145, "An Act relating to the Board of Pharmacy; relating to health care services provided by pharmacists and pharmacy technicians; and relating to the practice of pharmacy."

[3:42:29 PM](#)

REPRESENTATIVE SNYDER, as prime sponsor, introduced HB 145, which she described as a "housekeeping bill" as it pertains to the business of pharmacy and pharmacy services. She paraphrased the sponsor statement, which read as follows [original punctuation provided]:

Passage of House Bill 145, "The Pharmacist Mobilization Act," increases access to care and ensures Alaska's pharmacists are reimbursed when providing services.

I am introducing it at the request of the Alaska Pharmacists Association in partnership with the Alaska Board of Pharmacy and the University of Alaska/Idaho State Doctor of Pharmacy Program.

The coronavirus pandemic has shown that pharmacists can engage at an elevated level to help deliver necessary healthcare to all Alaskans. Pharmacists have provided COVID-19 testing, vaccinations, and telehealth visits, and have helped patients manage chronic health conditions. This bill will update outdated statute so pharmacists can continue providing these services.

HB 145 defines the patient care services that pharmacists and pharmacy support staff can independently provide, allows pharmacist technicians to administer vaccines when under the direct supervision of a licensed pharmacist, and empowers the Board of Pharmacy to regulate pharmacists, student pharmacists, and pharmacy support staff who provide these services.

Furthermore, the bill updates the current provider anti-discrimination statute to support insurance coverage of these patient care services when provided by a pharmacist. Currently, pharmacists are one of the only healthcare professionals not listed in this statute.

HB 145 largely updates outdated statutes to align with current practices. Its passage benefits Alaskans by increasing healthcare access during and after the pandemic. Please support this common sense, housekeeping bill that will help your local, patient-oriented pharmacies continue to provide essential services.

[3:45:13 PM](#)

ALLIANA SANGUIT, Staff, Representative Liz Snyder, Alaska State Legislature, on behalf of Representative Snyder, prime sponsor, detailed the sectional analysis of HB 145 [original punctuation provided]:

Sec. 1: Adds language to AS 08.80.030(b) Powers and Duties of the Board, statute that outlines the Board of Pharmacy's powers, that allows the Board of Pharmacy to adopt rules to regulate the independent monitoring of drug therapy and independent pharmacist prescribing of vaccines and naloxone.

Sec. 2: Adds a new subsection to AS 08.80.045 Nonprescription Drugs that aligns statute with the current practice of pharmacists recommending non-prescription medications and devices for treating minor and self-limited conditions.

Sec. 3: Amends AS 08.80.155 Emergency Permit to increase the Board of Pharmacy's flexibility to grant emergency licenses for all relevant licenses used in pharmacies.

Sec. 4: Amends AS 08.80.168(a) Administration of Vaccines and Related Emergency Medications by adding "prescribe" to existing vaccine administration statute.

Sec. 5: Amends AS 08.80.168(b) by replacing "dispense" with "prescribe and administer" in regards to administering an opioid overdose drug.

Sec. 6: Adds a new subsection to AS 08.80.168 that allows a pharmacy technician to administer a vaccine or related emergency medication but only if they have been authorized by the Board of Pharmacy to do so AND if they are under the direct supervision of a licensed pharmacist who meets the requirements in AS 08.80.168 (a).

Sec. 7: Adds language to AS 08.80.297(a) Prescription Prices Available to Consumer that allows personnel who are not licensed pharmacists to disclose the cost of filling a prescription when directed by a pharmacist working at the same institution.

Sec. 8: Amends AS 08.080 Pharmacists and Pharmacies by adding a new section, AS 08.80.337 Other Patient Care Services, that:

- Allows a pharmacist to provide patient care services for a disease or condition with an existing diagnosis under an agreement made with and approved by a practitioner
- Limits patient care services that pharmacists can provide to those that are minor, selflimiting, and have a CLIA-waived laboratory test which guides clinical decision making.
- Provides language that allows pharmacists to be reimbursed for providing these services 04/07/21

Sec. 9: Amends AS 08.80.480 Definitions by removing "dosage form" as a definition of "equivalent drug product". This allows pharmacists to make minor, non-therapeutic changes to prescriptions using clinical judgement and expertise without contacting the prescriber for verbal or written approval. This does not allow a pharmacist to substitute a dosage form that would negatively impact patient outcomes, safety, or cost effectiveness. Examples of appropriate substitutions under this section include changing from a tablet form of medication to a capsule form of the same medication and strength.

Sec. 10: Amends AS 08.80.480(30) by adding "dispensing" and "independent prescribing" to the definition of the "Practice of Pharmacy" to align with the changes made in Section 4 & 5 (AS 08.80.168) of this bill. These additions better represent actual provision of naloxone and vaccine by pharmacists.

Sec. 11: Amends AS 21.36.090(d) Unfair Discrimination to include "pharmacists" as protected health care providers in the provider anti-discrimination statute. This aligns the state statute with federal statute (CFR 438.12) and afford pharmacists the same protection as all other healthcare providers when engaging health plans for covered services such as ordering laboratory tests, point-of-care testing, vaccine prescribing and administration, preventative health services, managing minor self-limiting conditions, and participating in collaborative disease state management.

[3:49:30 PM](#)

TOM WADSWORTH, PharmD, Chief Administrative Officer, University of Alaska/Idaho State University Doctor of Pharmacy Program, informed the committee that his testimony doesn't represent any official position of the University of Alaska and that he was speaking as a practicing pharmacist and educator. He explained that the Doctor of Pharmacy program trains students in every area proposed under HB 145, noting that graduates of the program are prepared to engage in a variety of patient care settings. He said that only about half of all practicing pharmacists are engaged in the community setting such as what one would find at a Walgreen's or Safeway pharmacy; pharmacists are often embedded inside physician clinics doing medicine management or post-diagnostic disease management. Pharmacists can specialize in pediatrics, oncology, infectious diseases, and psychiatry, he explained, and in each case are medication experts tasked with improving the medication experience for the patient. He expressed that HB 145 is a needed update to pharmacy practice laws, empowering the Board of Pharmacy to regulate patient care services not related simply to dispensing.

[3:51:59 PM](#)

GRETCHEN GLASPY, PharmD, President, Alaska Pharmacists Association, testified in support of HB 145. She informed the committee that the Alaska Pharmacists Association represents over 250 pharmacists, pharmacy technicians, and student pharmacists in Alaska. She said she has been a pharmacist for 15 years and is presently with Bartlett Regional Hospital as a clinical informatics pharmacist, or expert in pharmaceutical technology. She stated her strong support for HB 145.

[3:53:24 PM](#)

JUSTIN RUFFRIDGE, PharmD, Board of Pharmacy, explained that the Board of Pharmacy was tasked with regulating support for pharmacists' COVID-19 response and having the emergency regulations in place to take effect post-pandemic to facilitate recovery and expanding access to healthcare. One of the most difficult areas, he said, was consistent friction due to state statutes existing in conflict with current pharmacy practices. Current statutes, he said, are largely relevant only to dispensing pharmacists, without considering the many other areas of pharmaceutical practice. He characterized HB 145 as legislation that would empower the Board of Pharmacy to continue

to regulate pharmacies, pharmacists, pharmacy technicians, and interns at the highest possible level.

[3:55:27 PM](#)

REPRESENTATIVE NELSON asked for further explanation of Section 7 of HB 145.

DR. RUFFRIDGE explained that there is a wide variety of opportunity for multiple individuals to use information related to the cost of filling a prescription. Pharmacy technicians are highly trained, he explained, and are usually engaged in computer-based activity of billing, looking up prices, and ordering medication. A pharmacist concentrates on the medicine, looking out for things like interactions or side effects. He characterized pharmacy technicians as "more adept and more in the nitty gritty of the billing" than pharmacists and stated that this is one of the ways the statutes could be aligned with current practices.

[3:57:53 PM](#)

CO-CHAIR SPOHNHOLZ pointed out that most people visiting a pharmacy speak with the pharmacy tech instead of a pharmacist.

[3:58:12 PM](#)

REPRESENTATIVE KAUFMAN expressed concern that parts of the proposed legislation would encroach on primary care.

REPRESENTATIVE SNYDER replied that, while physicians and physician groups have been contacted, no comments have been received.

[3:59:29 PM](#)

DR. WADSWORTH explained that there is already a definition in statute that addresses the duties of a pharmacist in providing pharmaceutical care or drug therapy, in what is called "other patient care services" for the intent of prevention and treatment of disease. The goal of Section 8 of HB 145, he said, is to determine exactly what patient care services the language refers to. He said there are no activities outlined in Section 8 that have not been practiced by pharmacists for at least the past 20-30 years; however, pharmacists in the private sector have experienced difficulties in engaging health plans for reimbursement, so such services have mainly been practiced by

pharmacists within organizations such as tribal health organizations or U.S. Veterans Affairs facilities. He noted that in a free market, services without a revenue stream cease being offered. Dr. Wadsworth directed attention to Section 8, subsection (a), describing a collaborative agreement to provide patient care services along with a practitioner, which he said is in accord with already-existing statutes and regulation around what's referred to as the "pharmacist collaborative authority," in effect since 2002.

DR. WADSWORTH addressed Section 8, subsection (b), which he said defines what patient care services a pharmacist may provide independently, noting that the subsection does not contain any activity not already practiced by pharmacists. Areas such as general health and wellness, smoking cessation, over-the-counter recommendations, or disease prevention, he said, all are non-prescriptive areas; minor or self-limiting conditions such as athlete's foot are often presented to pharmacists. He discussed certain types of tests performed by pharmacists and pointed out that if HB 145 were to fail, these tests would still be performed by pharmacists, just without reimbursement from health care insurers. Collaborative agreements such as the pharmacist collaborative authority, he said, are currently reviewed by the Board of Pharmacy and the Board of Medicine; the clarity that HB 145 would provide regarding independent patient care services would allow pharmacists to engage with health care plans and companies to provide services. For instance, he said, a patient who goes to a Soldotna pharmacy for a COVID-19 test would be able to have it covered by insurance.

[4:05:04 PM](#)

REPRESENTATIVE KAUFMAN asked whether subsection (b) could lead pharmacists to believe they have more authority than they actually do.

[4:06:27 PM](#)

MR. RUFFRIDGE responded that the Board of Pharmacy discussed subsection (b) in depth with providers, physicians, and practitioners across the state. The intent, he said, is not to promote prescription of medications outside of the current purview of pharmacists. The vagueness of the subsection is to allow for the "multitude of situations" encountered every day by pharmacists to be covered by the proposed legislation. He pointed out that under current statute, smoking cessation recommendations could not specifically be made by a pharmacist.

REPRESENTATIVE KAUFMAN asked to be provided with more information.

[4:09:06 PM](#)

CO-CHAIR FIELDS commented that he had the same question when he initially read the proposed legislation, and expressed that HB 145 seems to "strike the right balance."

[4:09:38 PM](#)

REPRESENTATIVE MCCARTY expressed support for HB 145 discussed having pharmacists offer eye exams.

[4:11:09 PM](#)

CO-CHAIR SPOHNHOLZ clarified that the invited testifiers are Doctors of Pharmacy, not of medicine. She then asked whether HB 145 would allow pharmacists to perform eye exams.

[4:12:10 PM](#)

DR. WADSWORTH replied that HB 145 does not specifically propose eye exams to be included in the covered activities, but that it would not be above the purview of a pharmacist to have an eye chart and perform a simple eye exam.

CO-CHAIR SPOHNHOLZ pointed out that Representative McCarty's question referred to a test currently administered by people not trained in healthcare or optometry, such as employees of the Department of Motor Vehicles.

DR. WADSWORTH agreed and noted that there is a precedent for every item in Section 8. He pointed out that the Board of Pharmacy would be the regulator of the statute. He then said that diabetes or high blood pressure screenings are performed by pharmacists as part of the general disease prevention activities in Section 8.

[4:14:15 PM](#)

REPRESENTATIVE SNYDER emphasized that HB 145 would update the statute to reflect current, modern practices.

[4:14:42 PM](#)

CO-CHAIR SPOHNHOLZ announced that HB 145 was held over.

HB 90-VEHICLE RENTALS & VEHICLE RENTAL NETWORKS

[4:14:57 PM](#)

CO-CHAIR SPOHNHOLZ announced that the final order of business would be HOUSE BILL NO. 90, "An Act relating to rental vehicles; relating to vehicle rental networks; relating to liability for vehicle rental taxes; and providing for an effective date."

[4:15:20 PM](#)

REPRESENTATIVE ADAM WOOL, Alaska State Legislature, as prime sponsor, thanked the committee and said he would be open to any questions.

[4:15:37 PM](#)

REPRESENTATIVE NELSON asked Representative Wool to comment on the letter from the Department of Revenue (DOR) [included in the committee packet].

REPRESENTATIVE WOOL responded that DOR has taken a neutral position on the bill. He said the statement presented in the PowerPoint presentation given during the House Labor and Commerce Standing Committee meeting on April 9, 2021, was from a DOR employee under the previous administration. He pointed out that the letter stated DOR would continue to follow the law regarding vehicle rental tax. He said it was established in the same committee meeting that anyone renting a car to someone else owes a vehicle rental tax, although there is no way to track down individuals, which is the reason for the proposed legislation.

REPRESENTATIVE NELSON opined that the quote gave the impression that the current DOR supports HB 90.

[4:17:39 PM](#)

CO-CHAIR FIELDS said that as recently as last year DOR was actively supporting the proposed legislation.

[4:18:09 PM](#)

MIKE BARNHILL, Deputy Commissioner, Department of Revenue, confirmed that the current administration does not have a position on HB 90.

[4:18:26 PM](#)

REPRESENTATIVE MCCARTY shared that he "likes" the proposed legislation and noted that Turo doesn't even have an Alaska business license. He wondered whether enforcing a vehicle rental tax would cost more money than would be collected.

REPRESENTATIVE WOOL stressed Representative McCarty's point that Turo has not applied for a business license in Alaska but is receiving revenue through its operations within the state. Uber does have a business license in Alaska, he said, and pays corporate income taxes. He said Turo has indicated an initial public offering (IPO) in 2021, making it a C Corp, which would mandate corporate state income taxes; with that change, he said, there may be more transparency in their revenue.

REPRESENTATIVE MCCARTY mentioned Turo and business licenses in Alaska.

REPRESENTATIVE WOOL replied that it's already law that a business must have an Alaska business license in order to operate, and said that he doesn't think he needs the proposed legislation to repeat the statute.

[4:23:48 PM](#)

REPRESENTATIVE NELSON asked Mr. Barnhill about the stance of DOR on the previous iteration of the proposed legislation.

MR. BARNHILL said that while he believes the previous administration supported an earlier version of the proposed legislation, he's not aware of any position taken under the current administration.

[4:24:56 PM](#)

REPRESENTATIVE KAUFMAN noted that the effective date of HB 90 would be immediate. He asked whether there would be a grace period for implementation, and whether people hosting their cars would owe back taxes.

REPRESENTATIVE WOOL responded that people renting out cars are currently liable for the car rental tax. He said that this

proposed legislation would, in practice, add a line item for tax on the payment page of the app. He said that the state would not have the names of the hosts, so there would be no mechanism for retroactive enforcement. He emphasized that car rental tax is not a liability incurred by the car owner, but is passed on to the buyer.

[4:27:20 PM](#)

CO-CHAIR SPOHNHOLZ noted that Section 8 of HB 90 states that the act would take effect immediately and would not be retroactive.

[4:27:47 PM](#)

MR. BARNHILL said DOR would implement enforcement should HB 90 pass.

[4:28:07 PM](#)

REPRESENTATIVE KAUFMAN asked whether DOR anticipates litigation to enforce the participation of the companies running the peer-to-peer applications.

MR. BARNHILL replied that litigation seems possible but said he is hesitant to speculate. He clarified that DOR would implement any passed legislation in good faith and actively look for efficient methods of enforcement.

[4:30:07 PM](#)

CO-CHAIR FIELDS stated his agreement that companies need to follow the law, which should apply equally whether a company does business through an app or a storefront. He said that with the increasingly virtual environment facilitating the transfer of goods and services, the law will need to adapt. He added:

The absence of a level playing field, conversely, encourages companies to engage in what economists call 'rent-seeking activities' ... you don't want to encourage rent-seeking activities. They're inefficient, they tend to exist in an environment of political corruption. It's incumbent on us to ensure companies follow the law.

CO-CHAIR FIELDS opined that it seems obvious that using digital transactions to facilitate services or the use of property can be taxed equitably, noting that owners hosting properties

through Airbnb pay lodging tax. He expressed that the middle class has experienced stagnant wages and rising costs and governments have experienced growing fiscal constraints due in part to some companies exploiting anachronisms existing in the law regarding selling a good or service through an online portal. He referred to Representative McCarty's earlier comment that laws need to be current. He wondered how to maximize public benefit as more goods and services migrate to digital platforms, expressing that consumers should be able to see the benefits and convenience of using digital platforms without the concerns of sacrificing the state's fiscal position, the wages of workers, or the public good.

[4:33:09 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on HB 90.

[4:33:22 PM](#)

SEAN VINCK, Senior Counsel, Turo, testified in opposition to HB 90. He opined that the "basic thrust" of the proposed legislation is to equate individual vehicle owners with traditional multinational rental car corporations, imposing on them the same obligations and burdens. He said that contrary to what has been discussed, HB 90 would not transfer obligations onto the vehicle sharing platforms, but impose collection obligations on individuals who share vehicles through said platforms. He said that, if the objective is to impose certain obligations on out-of-state platforms facilitating digital transactions in order to level the playing field, that's a reasonable goal. The problem, he said, is that HB 90 would impose those obligations on the individuals within Alaska. He said HB 90 would have no effect on the bottom line of corporations and suggested that other items to consider are consumer protection, public safety, and insurance, and that there exists a model for car sharing legislation on the national level.

[4:37:27 PM](#)

CO-CHAIR FIELDS asked, "Do you think if General Motors had to pay taxes and Ford did not, that would have an impact on their competitiveness, vis-à-vis each other?"

MR. VINCK replied, "I assume that the answer is yes. I don't represent either of those companies and don't know what their financial situation is."

CO-CHAIR FIELDS stated, "Then, obviously, it would have an impact on your competitiveness vis-à-vis bona fide local businesses in Alaska that rent cars."

[4:37:54 PM](#)

REPRESENTATIVE KAUFMAN asked Mr. Vinck whether he was referring to the subparagraph beginning on page 1, line 12, which read as follows:

(B) vehicle rental business that arranged or executed the rental through the vehicle rental network if the rental was arranged or executed through a vehicle rental network; and

REPRESENTATIVE KAUFMAN asked whether Mr. Vinck was discussing his interpretation that the "rental business" terminology referred to the individual hosting the car, rather than the online broker arranging the rental.

MR. VINCK responded that Representative Kaufman highlighted the section in question. He said that his interpretation is that the objective is to impose tax collection obligations on both the person who provides the vehicle and also on the vehicle rental business as defined later in the text of the proposed legislation. He said that, in his interpretation, the vehicle rental business is the person or entity that owns the vehicle. The network, he said, is the platform through which the owner of the vehicle connects with the person who wants to share the vehicle. The vehicle network as defined in the text, he said, is not the same thing as the rental business. He said that the proposed legislation would not put the obligation for tax collection on the network, but on the business, which is defined as the owner of the vehicle. He said that the issue of ambiguity in the structure of the proposed legislation should require broader discussion.

[4:40:15 PM](#)

CO-CHAIR SPOHNHOLZ asked whether Turo collects taxes on rentals that take place in other states.

MR. VINCK replied that some states have been authorized to deploy tax collection and remittance obligations to out of state platforms, transferring the tax collection obligation from vendors to platforms under certain circumstances. To that end,

he said, the law requires businesses to collect and remit sales taxes on many transactions in approximately 24 states.

CO-CHAIR SPOHNHOLZ referred to Mr. Vinck's earlier assertion that HB 90 "seeks to equate individuals who seeks to rent their vehicles with multinational corporations." She asked whether Turo operates outside of the United States.

MR. VINCK replied that Turo is a technology company and does not own any vehicles, but that it provides the technology platform to those who do own vehicles. He said, "My comment earlier was to point out that this is trying to equate shared vehicle owners with multinational corporations."

[4:42:05 PM](#)

REPRESENTATIVE MCCARTY asked whether individual car owners collect payment and remit to Turo, or whether Turo collects payment and remits to the car owners.

MR. VINCK asked whether Representative McCarty was referring to taxes.

REPRESENTATIVE MCCARTY clarified his question.

MR. VINCK responded that the person who is renting the car provides the payment through the digital platform, which then remits compensation to the vehicle owner.

REPRESENTATIVE MCCARTY surmised that an individual pays Turo for the service, and Turo subcontracts with entities within Alaska.

MR. VINCK replied that an individual pays Turo the total price, and Turo remits to the vehicle owner the agreed amount.

REPRESENTATIVE MCCARTY concluded, "So that means Turo is really doing business in Alaska."

MR. VINCK suggested that defined terms in statute mean that Turo is not actually doing business in Alaska.

[4:44:22 PM](#)

CARL SZABO, Vice President and General Counsel, NetChoice, testified in opposition to HB 90. He said that Alaska doesn't have a statewide sales tax, which is what is affected by established law. He said that saying the U.S. Supreme Court

decision in South Dakota v. Wayfair, Inc., No. 17-494 (U.S. Jun. 21, 2018), applies to car rental tax is a misrepresentation. He mentioned Representative Kaufman's discussion of the effective date and whether the tax obligation would be retroactive. He said that no state treats peer-to-peer car sharing the same as large rental car companies when it comes to taxes. He said that Hertz and "Big Rental" own thousands of cars in Alaska, but Turo doesn't own a single vehicle; likewise, those companies enjoy a tax carve-out of approximately \$4 billion nationwide, with \$1.9 million in Alaska, for which Turo and individual car owners are not eligible. Mr. Szabo suggested that digital platforms facilitating car sharing are exactly the same as using the classified page in the Anchorage Daily News, which has an app, provides other services, and facilitates rentals. Therefore, he opined, the Anchorage Daily News would be one of the "tax scofflaws" addressed under HB 90. Either the proposed legislation is way too overinclusive as a new tax, he said, or it's a retroactive tax already in statute, in which case HB 90 is irrelevant and, if enacted, would face the same constitutional issues as did North Dakota.

[4:48:04 PM](#)

CO-CHAIR FIELDS commented that it's ironic that NetChoice's representative was inveighing against companies operating within the state of Alaska while it's funded by Google, Alibaba, Amazon.com, and some of the other largest multinational companies on earth.

[4:48:40 PM](#)

BENJAMIN PALMER, Director of Government and Public Affairs, Enterprise Holdings, Inc, testified in support of HB 90, stating that it would clarify that peer-to-peer car rental platforms are required to collect car rental taxes for transactions on their platforms. He said that the tax would be paid by the consumer, and that everyone renting a car in Alaska should expect to pay the tax. As stated before, he said, the proposed legislation would create a level playing field and ensure the state's general fund doesn't lose out on revenue.

[4:49:56 PM](#)

REPRESENTATIVE MCCARTY asked whether Enterprise Holdings, Inc, engages in peer-to-peer services.

MR. PALMER replied that Enterprise CarShare exists in some locations, but that the corporation does not engage in traditional peer-to-peer services.

[4:50:29 PM](#)

CO-CHAIR SPOHNHOLZ, after ascertaining that no one else wished to testify, closed public testimony on HB 90.

[4:50:37 PM](#)

CO-CHAIR FIELDS moved to report HB 90 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 90 was reported out of the House Labor and Commerce Standing Committee.

[4:51:23 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:51 p.m.